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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

GUTMAN, HILARY L

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/789,866	Applicant(s) BAKER ET AL.	
	Examiner Hilary Gutman	Art Unit 3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 7, 9, 10, 13-16 and 20 is/are rejected.
- 7) ☒ Claim(s) 4, 5, 8, 11, 12 and 17-19 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/1/04</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Drawings

1. The drawings are objected to because in Figure 1, the right-hand-most number "24" should be "28" and in Figure 3, "51" should be "52" and the two holes which are shown as "46" should be "56" to correspond with the specification (see marked-up copies of Figures 1 and 3, hereto attached). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the vehicle of claims 1, 10, and 16, the wheel of claim 3, the support platform used as a loading ramp of claims 6, 14, and 20, the

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deck being textured of claims 7 and 13, the kit form of claim 15, the consumer of claim 15, the purchase of the kit form by the consumer in claim 15 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

4. The disclosure is objected to because of the following informalities: page 2, [002], line 9, "for" should be inserted after "exists". On page 5, [0020], line 1, "line 7-7 in Figure 1" should be "line 8-8 in Figures 6". Appropriate correction is required.

Claim Objections

5. Claims 2-4, 10-11, and 16-17 are objected to because of the following informalities:

In claim 2, line 3, "an" should be "and".

In claim 3, line 2, "a vehicle" should be "the vehicle". On line 4, "said said vehicle" should be "said vehicle".

In claim 4, line 8, "a support surface" should be "the support surface". On line 10, a negative limitation, "not load bearing" is recited which is inappropriate for the claim language since the limitations of the claims should be positively recited.

In claim 10, line 13, "a vehicle" should be "the vehicle". In line 14, "a support surface" should be "the top surface". In line 16, "an" should be "and".

In claim 11, line 8, "a support surface" should be "the support surface". On line 10, a negative limitation, "not load bearing" is recited which is inappropriate for the claim language since the limitations of the claims should be positively recited.

In claim 16, lines 12-13, "a generally upright position" should be "the generally upright position". On line 17, "a" should be "the".

In claim 17, line 8, "a support" should be "the support". On line 10, a negative limitation, "not load bearing" is recited which is inappropriate for the claim language since the limitations of the claims should be positively recited.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 6, 14-15, and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 6, 14, 20 are unclear since the support platform is not apparently disclosed or shown for use as a loading ramp.

In claim 15, a "kit" is recited which is altogether unclear since no mention of the specifics of a kit are disclosed in the specification or shown in the drawing figures.

Double Patenting

8. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The

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filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

9. Claim 10 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 2.

When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gonska in view of Looker.

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Gonska (5,639,174) discloses a vehicle support platform comprising: a vehicle support deck 12a, 12a of a generally rectangular shape having a top surface and a bottom surface; a deck support frame 12b constructed from a plurality of frame members, said deck support frame having a top surface, a bottom surface, a first end, a second end and two sides (Figure 4), the bottom surface of said vehicle support deck is attached to the top surface of said deck support frame; a first ramp 14 pivotally attached to the first end of said deck support frame; and a second ramp 14 pivotally attached to the second end of said deck support frame.

Gonska lacks four casters attached to said deck support frame, said casters for supporting the entire weight of the vehicle support platform and a vehicle supported thereon upon a support surface.

Looker (6,824,338) teaches four casters.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided four casters as taught by Looker upon the vehicle support platform of Gonska in order to allow the platform to be moved by rolling upon the casters.

13. Claims 2 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gonska, as modified, and applied to claim 1 above and further in view of Floe.

With regard to claims 2 and 10, Gonska, as modified, lacks the longitudinal side members and the transverse members being hollow tubular members.

Floe (6,733,219) teaches longitudinal side members and transverse members of a vehicle support platform being hollow tubular members.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided hollow tubular members as taught by Floe in place of the members of Gonska, as modified, in order to provide a platform that can support the vehicle and be lightweight.

14. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gonska, as modified, and applied to claim 1 above and further in view of Mauk et al.

Gonska, as modified, lacks a vehicle wheel engagement means.

Mauk et al. (1,733,269) teach a vehicle wheel engagement means.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the vehicle wheel engagement means as taught by Mauk et al. upon the support platform of Gonska, as modified, in order to better secure the vehicle when supported on the platform.

15. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gonska, as modified, and applied to claim 1 above.

With regard to claim 6, the support platform of Gonska, as modified, can apparently be used as a loading ramp.

With regard to claim 6, the support platform can be used as a loading ramp.

16. Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gonska, as twice modified, and applied to claim 10 above.

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With regard to claim 14, the support platform of Gonska, as twice modified, can apparently be used as a loading ramp.

With regard to claim 15, the support platform can apparently be packaged in a kit form for a consumer to assemble upon purchase. It is well known in the prior art to ship products more compactly in a disassembled state for reassembly by a retailer or purchaser.

17. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gonska, as modified, and applied to claim 1 above and further in view of Ullman.

With regard to claim 7, Gonska, as modified, lacks the top surface of the support deck being textured.

Ullman (5,553,989) teach a support deck formed of tread plates having a raised textured non-slip surface 14a, 16a to provide traction for the wheels of a vehicle supported thereon.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a textured top surface as taught by Ullman for the top surface of Gonska, as modified, in order to provide traction for vehicles secured to the support deck.

18. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gonska, as twice modified, and applied to claim 10 above and further in view of Ullman.

Gonska, as twice modified, lacks the support deck being textured.

Ullman (5,553,989) teach a support deck formed of tread plates having a raised textured non-slip surface 14a, 16a to provide traction for the wheels of a vehicle supported thereon.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a textured surfaces as taught by Ullman for the support deck of Gonska, as twice modified, in order to provide traction for vehicles thereon.

19. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gonska, as modified, and applied to claim 1 above and further in view of Lyrstrand et al.

With regard to claim 9, Gonska, as modified, lacks tie-downs positioned around the perimeter of the support deck.

Lyrstrand et al. (6,709,208) teach a plurality of tie-downs positioned around the perimeter of a support deck for securing an item thereon.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided tie-downs as taught by Lyrstrand et al. around the perimeter of the support deck of Gonska, as modified, in order to better secure a vehicle thereon.

20. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gonska, as modified, and as applied to claim 1 above and further in view of Mauk et al.

Gonska, as modified, lacks a vehicle wheel engagement.

Mauk et al. (1,733,269) teach a vehicle wheel engagement means for supporting a vehicle in a generally upright position on a vehicle support deck, the vehicle wheel engagement means is attached to the vehicle support deck and wherein the vehicle wheel engagement means is releasably attached to the support deck.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the vehicle wheel engagement means as taught by Mauk et al. upon the support platform of Gonska, as modified, in order to better secure the vehicle when supported on the platform.

21. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gonska, as twice modified, and applied to claim 16 above.

With regard to claim 20, the support platform of Gonska, as twice modified, can apparently be used as a loading ramp.

Allowable Subject Matter

22. Claims 4-5, 8, 11-12, and 17-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Gutman whose telephone number is 703-305-0496.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 703-308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

25. **Any response to this action should be mailed to:**

Assistant Commissioner for Patents

Washington, D.C. 20231


or faxed to:

(703) 872-9326, (for formal communications intended for entry)

or:

(703) 746-3515, (for informal or draft communications, please clearly label

“PROPOSED” or “DRAFT”).


Hilary Gutman
March 30, 2005